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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/844,047	04/30/2001	Ronald L. Beale	133/28	2696

7590

10/07/2002

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EXAMINER

BREVARD, MAERENA W

ART UNIT

PAPER NUMBER

3727

DATE MAILED: 10/07/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

S.M.

Office Action Summary

Application No.

09/844,047

Applicant(s)

BEALE, RONALD L.

Examiner

Maerena W. Brevard

Art Unit

3727

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 September 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) 5-8, 13 and 16 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4, 9-12, 14, 15 and 17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2. 6) ☐ Other: _____

Art Unit: 3727

DETAILED ACTION

Election/Restrictions

1. Applicant's election without traverse of Species I in Paper No. 6 is acknowledged.
2. Claims 5-8, 13, and 16 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in Paper No. 6.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-4, 9-12, 14, 15, and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jaeger in view of Bertholon.

Jaeger discloses a back support apparatus (Figure 3) for use with a backpack, the apparatus comprises a pair of elongated inflatable bladders (18) spaced generally parallel to each other and connected to a front panel of the backpack and valve means (19) for deflating the bladders, but does not teach a pump means for inflating the bladders. However, Bertholon teaches a pump means (6) for inflating the bladder of inflatable shoulder straps. It would have been obvious to use the pump of Bertholon with the inflatable structure of Jaeger to inflate the bladders. Doing so would provide an attachment that would provide an easier and quicker means of inflating the bladders.

Art Unit: 3727

Regarding claims 2-4 and 10-12, the bladders are spaced at most two inches from each other and inflated to a diameter no more than two inches, to exert a support force against the user's spinal column from opposite sides thereof, to the same degree claimed.

Regarding claims 14 and 15, each bladder has one inflation chamber communicably connected to the inflation chamber of the other by at least a bridge conduit (the bottom portion of 18), wherein the conduit has an inflated diameter less than an inflated diameter of each bladder, to the degree claimed.

Regarding claim 17, an alternate embodiment (Figures 6 and 7) teaches the means for vertically connecting the pair of bladders to the front panel including a second panel (47) connected (48) to the front panel, rather than the hook and loop means of the embodiment in Figure 3.

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Hernandez and Ingram are cited for inflatable back support apparatus.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Maerena W. Brevard whose telephone number is 703/305-0037.

The examiner can normally be reached on M-Th; 8:00 AM-6:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lee W. Young can be reached on 703/308-2572. The fax phone numbers for the organization where this application or proceeding is assigned are 703/872-9302 for regular communications and 703/746-4224 for After Final communications.

Application/Control Number: 09/844,047

Page 4

Art Unit: 3727

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703/305-0037.



Maureen W. Brevard
Patent Examiner